

### **REMARKS/ARGUMENTS**

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1-27 have been cancelled. New claims 28-58 have been added. Support for the amendments may be found throughout the specification. No new matter has been added as a consequence of these amendments.

Applicants submit that the typographical error in Table 12, at page 21, of the application as filed, wherein the comparative example was inadvertently labeled as "36\*" and should rather read as "26\*" – which is evident, for example, from the description of Example 4 (see page 20, lines 5-8 and as shown in Table 10, at page 20, of the application as filed).

Claims 1-27 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants submit that amendments to the pending claims have rendered these rejections moot.

Claims 1-5, 9-13, 18 and 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,589,579 ("Ganan-Calvo"). Claims 1 and 3-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,628,937 ("Oliver"). Claims 12-17, 19, and 21-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Oliver in view of Ganan-Calvo. For at least the following reasons, the claims are believed to be patentable over the cited references.

Applicants submit that, unlike the pending claims, neither Ganan-Calvo nor Oliver teach or suggest particulate materials which exhibit particles having a mono-dispersivity index (MDI) of not more than 1.2 and have at least 80% of substantially the same morphology. On the contrary, the particulate materials of Ganan-Calvo have a narrow particle range and *mixed* morphologies (not the specified MDI and the specified morphology of the pending claims).

Similarly, in regards to Oliver, it has been asserted, on page 4 of the present Official Action, that the particulate materials of Oliver are highly uniform, and therefore will "necessarily have substantially the same morphology." Applicants respectfully disagree. Control of particle size distribution and particle morphology are not analogous. Furthermore, unlike the pending claims, there is nothing in Oliver that teaches –much less suggests – that the particulate materials produced exhibit

particles that are substantially mono-dispersed and have substantially the same morphology.

Moreover, the suggestion, also on page 4 of the present Official Action, that the particles of Oliver would have a particulate material having a mono-dispersivity index (MDI) "of at most 0.5," is – at best – mere speculation on the part of the Examiner. Specifically, in the absence of detailed particle size distribution data, it is impossible to say with any degree of certainty what the MDI value of any given particulate material will be.


Accordingly, as neither Ganan-Calvo nor Oliver, either alone or in combination, describe the particulate materials of the pending claims, nor the methods for making the same, it is submitted that the pending claims are patentable over Ganan-Calvo and Oliver, either alone or in combination.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

JONES DAY

By: 

Paul L. Sharer  
Registration No. 36,004  
Direct No. (202) 879-5481

Intellectual Property Group  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
(202) 879-3939 Telephone  
(202) 626-1700 Facsimile

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